

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/530,832

Applicant: Terrasse et al.

Filed: October 8, 2003

Entitled: Skin Testing Kit For Diagnosing  
Atopy

Art Unit: Not assigned

Examiner: Not assigned

PCT Application No: PCT/FR03/02957

PCT Filing Date: October 8, 2003

MS: PCT  
Commissioner for Patents  
Attn: Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

RECEIVED

10 NOV 2005

Legal Staff  
International DivisionRenewed Petition Under 37 C.F.R. §1.137(b)

Sir:

Transmitted herewith for the above-referenced application please find:

1. Petition for Revival of an Application Abandoned Unintentionally Under 37 C.F.R. §1.137(b);
2. Statement Accompanying Petition for Revival of an Application Abandoned Unintentionally Under 37 C.F.R. §1.137(b);
3. Copy of "DECISION ON PETITION";
4. Check No. 2567 in the amount of \$1115.00, which covers the revival fee for \$750.00 (small entity) and \$365.00 to cover remaining filing fee and/or surcharge;
5. Executed Declaration and Power of Attorney;
6. Return Receipt Postcard

<b>EXPRESS MAIL Number: ED 207949152 US</b>	
<b>Date of Deposit:</b>	
I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as "Express Mail" in an envelope addressed to: Mail Stop: PCT, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.	
<u>MIKE NICOLAOU</u>	
(Name of Person Mailing Paper)	
<u>SHH Nicolaou</u>	<u>3 NOV 05</u>
(Signature)	(Date)

By: Shihong Nicolaou  
Shihong Nicolaou  
Registration No.: 46,960

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Terrasee

Application No.: 10/530, 832

Art Unit: Not assigned

Filed: October 8, 2003

Examiner: Not assigned

Title: Slin Testing Kit for Diagnosing Atopy

11/08/2003 MKAYPAGH 00000095 10530832

04 FC:2453 750.00 OP

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in  
the form of Response to Notification of Abandonment (identify type of reply):☒ has been filed previously on 9/23/05 with \$150.00.  
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

☐ has been paid previously on \_\_\_\_\_.  
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee


☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
11/03/2005  
Date

\_\_\_\_\_  
Shihong Nicolaou  
Typed or printed name

\_\_\_\_\_  
46,960  
Registration Number, if applicable

\_\_\_\_\_  
4931 Arroyo Lindo Avenue  
Address

\_\_\_\_\_  
858-273-1238  
Telephone Number

\_\_\_\_\_  
San diego, CA 92117  
Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Decision on Petition, Check, Declarations and POAs, postcard

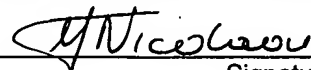
**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as ~~first class~~ <sup>EXPRESS</sup> mail in an envelope addressed to: Mail Stop ~~Petition~~ <sup>PCT</sup>, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

3 Nov 05  
Date

  
\_\_\_\_\_  
Signature  
Mike Nicolaou  
Typed or printed name of person signing certificate

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/530,832

Applicant: Terrasse et al.

Filed: October 8, 2003

Entitled: Skin Testing Kit For Diagnosing  
Atopy

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P.O. Box 1450  
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Statement Accompanying Petition Under 37 C.F.R. §1.137(b)

Sir:

This statement accompanies a Petition for Revival of the above-identified application under the provision of 37 C.F.R. §1.137(b) on the grounds that the application was abandoned unintentionally by the Applicants. It is respectfully submitted that Applicants' failure to provide the balance of the US filing fee was an unintentional error. The present statement provides the required statement that the entire delay in filing the required fees was unintentional.

Enclosed is a check in the amount of \$1115.00, which includes the petition fee required by 37 CFR 1.17(m), the remaining balance of the national stage filing fee as small entity (covering the examination fee of \$100.00 and search fee of \$200.00), and a surcharge of \$65.00 for furnishing the oath and declaration later than 30 months from the earliest claimed priority date (37 CFR 1.492(h)). If the Examiner would like to discuss any of the issues raised herein, Applicant's representative can be reached at 858-273-1238.

11/08/2005 MKAYPAGH 00000095 10530832

01 FC:2633	100.00 OP
02 FC:2642	200.00 OP
03 FC:2617	65.00 OP

Respectfully submitted,



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Shihong Nicolaou

Registration No. 46,960

(TEL): 858-273-1238

(FAX): 858-273-1238



13 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Emile Loria  
5916 Via Zurita  
La Jolla, CA 92037

In re Application of  
TERRASSE et al. :  
Serial No.: 10/530,832 :  
PCT No.: PCT/FR03/02957 :  
Int. Filing Date: 08 October 2003 : DECISION ON PETITION  
Priority Date: 08 October 2002 :  
Atty. Docket No.: N/A :  
For: SKIN TESTING KIT FOR :  
DIAGNOSING ATOPY :  
(CUTANEOUS DIAGNOSTIC KIT :  
ATOPY)

This decision is in response to applicants' communication which is being treated as a Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b) filed on 23 September 2005.

### BACKGROUND

On 08 October 2003, applicants filed international application no. PCT/FR03/02957 which claimed a priority date of 08 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 April 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 08 April 2005.

On 08 April 2005, applicants filed a Transmittal Letter (PTO-1390) which included an English translation of the international application.

On 14 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

On 23 September 2005, applicants filed the present submission requesting the above-identified application be revived under 37 CFR 1.137(b).

**BEST AVAILABLE COPY**

### DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Items (1) and (4) have been satisfied.

With regard to Item (1), the proper response was the payment of the basic national fee of \$150.00.

As to Item (2), the appropriate petition fee of \$750.00 as required by 37 CFR 1.17(m) has not been submitted.

With regard to Item (3), applicants' have not stated that "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" pursuant to with 37 CFR 1.137(b)(3).


As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

### CONCLUSION

The petition under 37 CFR 1.137(b) is DISMISSED without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision and must include the \$750 petition fee and the required statement pursuant to 37 CFR 1.137(b)(3). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3298  
Facsimile: (571) 273-0459